IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 8634 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VIJAY HIRALAL CHAUHAN - Applicant(s)
Versus
STATE OF GUJARAT THRO' & 2 - Respondent(s)

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Appearance :

MR NIRAL R MEHTA for Applicant(s) : 1,
MR.DIPEN DESAI APP for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 3,
MR AZIZ AN ALVI for Respondent(s) : 3,
MR CHINMAY M GANDHI for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 29/08/2007

ORAL JUDGMENT

1. The petitioner has invoked provisions of Section 482 of the Code of Criminal Procedure, 1973 (for short, “the Code”) to pray for quashing of the complaint registered as C.R.No.I-30 of 2007 in Dhari Police Station on 10.07.2007.

According to the complaint registered in the form of F.I.R., it is alleged by respondent No.3 herein that his daughter aged 16 was kidnapped by the petitioner with a view to persuade her to marry him and the offences punishable under Sections 363 and 366 of the Indian Penal Code were alleged to have been committed by the petitioner.

2. It is stated in the application that the daughter of the complainant was aged 17 years and had fallen in love with the petitioner and, therefore, on 17.06.2007, she had left her parents' house to come to Ahmedabad at the petitioner's residence. It is further stated that the complainant had managed to get the address of the petitioner and started harassing them by issuing threats and demanding his daughter back. It is further stated that the daughter of the complainant did not want to return to her parents' house and, in such circumstances, no offence punishable under Sections 363 or 366 of the Indian Penal Code was made out.

3. Admittedly, the daughter of the complainant has not reached marriageable age and she has, by now, returned to her parental home or

alleged to have been forcibly taken back, even as the investigation in the offence registered as aforesaid was under way. In these facts, it would be premature to believe or declare that no offence is made out in the F.I.R. registered against the petitioner. Learned counsel for the original complainant, Mr.Alvi, relied upon recent judgment of the Hon'ble Supreme Court in **T. Vengama Naidu V/s. T. Dora Swamy Naidu and others [III (2007) SLT 271]** in support of the submissions that the F.I.R. has to be taken at its face value and merits of the allegations cannot be entered into at the stage when investigation was in progress.

4. In the above facts, petition is dismissed, Rule is discharged and interim relief is vacated with no order as to costs.

(D.H.WAGHELA, J.)

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